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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,150	01/29/2004	Christopher J. Boston	24837/04303	4634
26291 7590 02/28/2008 PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702			EXAMINER DO, ANH HONG	
			ART UNIT 2624	PAPER NUMBER
			MAIL DATE 02/28/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/767,150	Applicant(s) BOSTON ET AL.	
	Examiner ANH H. DO	Art Unit 2624	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 8-13, 15, 16, 18 and 19 is/are allowed.
- 6) ☒ Claim(s) 7, 14, and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) ✓        | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: "facilitates" (line 15) should be written as "facilitate" (grammatical error). Appropriate correction is required.
3. Claim 18 is objected to because of the following informalities: "resolves" (last line) should be written as "facilitate" (grammatical error). Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 7, 14 and 17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 provides for the use of computer executable portions, but, since the claim does not set forth any steps involved in the method/process (i.e., it does not set forth any function that the program performs), it is unclear what method/process

applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 7 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Similarly, claim 14 provides for the use of a method but it does not set forth any steps involved in the method/process. Thus, claim 14 is also rejected under 35 U.S.C. 101.

Regarding claim 17, the phrase of "one of a choice" in lines 4-5 renders the claim indefinite because it should refer to "one of several choices".

#### ***Allowable Subject Matter***

6. Claims 1-6, 8-13, 15, 16, 18 and 19 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 1 and 8, the prior art, taken either singly or in combination, do not teach:

- computing synthetic reflectance curves that facilitate matching colors on materials with different properties.

Regarding claims 2-6, and 9-10, since these claims depend from claims 1 and 8, respectively, they are also allowable for the same reason.

Regarding claim 11, the prior art, taken either singly or in combination, does not teach:

- computing synthetic reflectance curves of a color that when employed to color the second simulated substrate makes the display of the second simulated substrate substantially identical to the display of the first simulated substrate as colored with the spectrophotometric data.

Regarding claims 12-13, since these claims depend from claim 11, they are also allowable for the same reason.

Regarding claim 15, the prior art, taken either singly or in combination, does not teach:

- means for generating a second simulation that represents a simulated substrate colored according to the characterizing of the color of the physical reference sample; means for comparing the colorimetric data associated with the first simulation and the colorimetric data associated with the second simulation; and means for producing spectral reflectance curves that resolves color differences identified by the means for comparing.

Regarding claim 16, the prior art, taken either singly or in combination, does not teach:

- a third interface for communicating synthetic spectrophotometric data, and where the first interface, the second interface, and the third interface provide the computer component with access to the system that matches colors.

Regarding claim 18, the prior art, taken either singly or in combination, does not teach:

- generating synthetic reflectance curves that resolve color differences between the two or more images.

Regarding claim 19, the prior art, taken either singly or in combination, does not teach:

- one or more third fields that store synthetic spectrophotometric data associated with resolving color differences between the colorimetric data.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 2624

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANH H. DO whose telephone number is 571-272-7433. The examiner can normally be reached on 5/4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 26, 2008

  
**ANH HONG DO**  
**PRIMARY EXAMINER**